HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.23835 of 2006

Date : 22-11-2006

Between:

Mohd. Khaja Pasha .. Petitioner

And

Municipal Corporation of Hyderabad
and others ..
Respondents

HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.23835 of 2006

ORDER:

The Writ Petition is filed for a writ of mandamus complaining the inaction on the part of respondents 1 to 3 in relation to the consideration of representations of the petitioner dated 7-11-2006 and 14-6-2006 on illegal demolition taken up by respondents 4 and 5 in contravention of Hyderabad Municipal Corporations Act and also in violation of Articles 14 and 21 of the Constitution of India and to pass such other suitable orders.

It is stated that the petitioner is running a general store in the name and style of Qasimia Enterprises in the premises in question including kirana items and the petitioner is paying a monthly rent of Rs.2860/- to his landlord/4th respondent. It is also stated that the petitioner is doing this business for more than four years. It is further stated that on 15-4-2006, the 5th respondent who is the

friend of 4th respondent came to the shop along with anti-social elements and forced the petitioner to enhance the rents and tried to dispossess the petitioner from the mulgi. The petitioner filed O.S.No.2016/2006 before the III Junior Civil Judge, City Civil Court, Hyderabad for perpetual injunction wherein the unofficial respondents had been set exparte and the suit was decreed on 23-10-2006 in favour of the petitioner. It is also stated that without any notice, the 4th respondent engaged labour and started demolition of upper floor of the building to evict the petitioner from the premises and he is doing so without following the provisions of Hyderabad Municipal Corporations Act 1955. Several other factual details also had been narrated in paras 5 and 6. Thus the specific grievance of the petitioner is that despite the representations made in this regard, the official respondents are not initiating appropriate action.

Sri Ganta Rama Rao, the learned standing Counsel representing respondents 1 and 2 would submit that the respondents 1 and 2 will look into the grievance of the petitioner in the light of Section 423 of the Act aforesaid and beyond thereto the respondents are not expected to do

anything further in law.

The learned Counsel for the petitioner no doubt placed strong reliance on **Satyanarayana Tiwari Vs. S.H.O., P.S. Santhoshnagar, Hyderabad and others** [1]. Section 423 of the Act dealing with **Protective measures during demolition work** reads as hereunder :

(1) No person who proposes to take down a building or a part thereof, shall commence doing so without providing in addition to such board or fence which he may be required to provide under Section 417 and screens extending to the full height of such building on all sites thereof so as to prevent pollution of the surrounding air with dust or injury or damage caused by falling of any debris, bricks, wood or other material.

(2) If any such work is commenced in contravention of sub-section (1) the Commissioner may cause it to be stopped forthwith and any person carrying it out be removed from the premises by a police officer.

In the light of the same, this Court is of the considered opinion that the Writ Petition be disposed of directing the respondents 1 and 2 to look into the grievance of the petitioner in the light of the provisions referred to supra and take appropriate action in accordance with law.

The Writ Petition is disposed of. No costs.

Justice P.S. Narayana

Date : 22-11-2006

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[1] AIR 1982 A.P. 161